

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

ALLARD K. LOWENSTEIN INTERNATIONAL	)	
HUMAN RIGHTS PROJECT	)	
	)	
and	)	<b>COMPLAINT</b>
	)	
JEROME N. FRANK LEGAL SERVICES ORGANIZATION	)	
	)	06 Civ.
Plaintiffs,	)	
	)	
v.	)	
	)	
U.S. DEPARTMENT OF HOMELAND SECURITY	)	
	)	
Defendant.	)	
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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory and injunctive relief to compel the disclosure and release of agency records improperly withheld from Plaintiffs by Defendant United States Department of Homeland Security (“DHS”) and its component United States Immigration and Customs Enforcement (“ICE”).
2. Plaintiffs seek to compel the release of records of a largely secret ICE program known as “Operation Front Line.” This generally unacknowledged program constitutes a portion of the massive ICE intelligence and investigation budget and has affected Connecticut residents and employers. No details of the scope, duration, methodology, or results of the program have been made publicly available.

### **JURISDICTION AND VENUE**

3. This Court has both subject matter jurisdiction over Plaintiffs' claims and personal jurisdiction over Defendant agency pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1346.

4. Venue lies in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(e) and 1402(a)(1), as the complainants both reside in the District of Connecticut.

### **PARTIES**

5. Plaintiff Allard K. Lowenstein International Human Rights Project ("Lowenstein Project") is the human rights advocacy component of the Orville H. Schell Jr. Center for International Human Rights at Yale Law School. The office and principal place of business of the Allard K. Lowenstein International Human Rights Project is located in New Haven, Connecticut.

6. Plaintiff Jerome N. Frank Legal Services Organization ("LSO"), is the primary clinical program at Yale Law School. LSO provides free legal services to individuals and organizations in need of legal help who cannot afford private attorneys. The office and principal place of business of the Jerome N. Frank Legal Services Organization is located in New Haven, Connecticut.

7. Defendant United States Department of Homeland Security ("DHS") is the federal agency responsible for securing the nation's borders, in part by enforcing federal immigration laws and managing the immigration process. U.S. Immigrations and Customs Enforcement ("ICE"), a component entity of DHS, is responsible for enforcing federal immigration statutes. DHS is an agency within the meaning of 5 U.S.C. § 552(f).

## **STATEMENT OF FACTS**

### **Targeted Immigration Enforcement Since September 11, 2001**

8. Since September 11, 2001, the federal government has aggressively enforced the nation's immigration laws, in part by targeting groups believed to constitute a threat.

9. Many elements of this enforcement regime have been carried out in secret.

10. DHS and other federal law enforcement agencies have resisted public scrutiny of these programs, rebuffing congressional, media, Freedom of Information Act, and other inquiries about their scope, duration, funding, and otherwise.

11. When eventually made public, some secretive programs have been challenged in court and adjudged unlawful.

12. Once brought to light, some otherwise lawful programs have raised widespread interest and public concern over possible discriminatory enforcement against minority groups.

13. Some elements of this enforcement regime have been publicly revealed and substantially explained, such as the National Security Entry Exit Registration System ("NSEERS"). NSEERS requires registration by all men over sixteen years of age from nations deemed to pose an "elevated security threat." Nearly all of these countries have majority-Muslim populations.

14. Some elements of this enforcement regime have been publicly announced and lauded by government officials but not thoroughly explained to the public.

### **Operation Front Line**

15. One element of DHS's enhanced enforcement effort is "Operation Front Line."

16. In the FY2006 DHS Program Assessment Rating Tool ("PART") Assessment, the Office of Management and Budget described "Operation Front Line" as a program carried out by

ICE's Office of Investigations "to address potential vulnerabilities in immigration and trade systems relative to the national security of the United States."

17. Unlike other ICE targeting programs that have been aggressively publicized by DHS, Operation Front Line has not been described in press releases or any other publicly-oriented documents.

18. The 2007 Department of Homeland Security Appropriations Act, H.R. 5441, provides \$1.388 billion dollars for investigations and intelligence conducted by ICE, but does not specifically describe the scope or cost of Operation Front Line.

19. Operation Front Line has been in operation for at least two years and has directly affected Connecticut residents, as well as their families, friends, neighbors, and employers.

#### **Plaintiffs' FOIA Requests to ICE**

20. By letter to ICE dated October 11, 2006, Plaintiffs submitted a FOIA request for "any record held by the U.S. Customs and Immigration Enforcement describing or concerning 'Operation Front Line,' 'Operation Frontline,' or any reasonable variation thereupon, including but not limited to records prepared for the Department of Homeland Security's Program Assessment Ratings Tool Assessment for the FY2006 presidential budget." A copy of that letter is attached to this complaint as Exhibit A. This letter was received by the agency on October 12, 2006.

21. To date, Plaintiffs have received no correspondence from ICE regarding this FOIA request.

22. To date, ICE has not provided the records requested by Plaintiffs in their FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

23. Plaintiffs have exhausted the applicable administrative remedies with respect to their FOIA request to ICE.

24. ICE has wrongfully withheld the requested records from Plaintiffs.

**FIRST CLAIM FOR RELIEF:  
Defendant DHS Failed to Disclose and Release Records  
Responsive to Plaintiffs' Request**

25. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 24 as if repeated and reincorporated herein.

26. ICE, a component of DHS, has violated Plaintiffs' rights to DHS records under 5 U.S.C. § 552.

**SECOND CLAIM FOR RELIEF:  
Defendant DHS Failed to Affirmatively Disclose Records  
Responsive to Plaintiffs' Request**

27. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 24 as if repeated and reincorporated herein.

28. Defendant's failure to make its new policy records available to the public violates 5 U.S.C. § 552(a)(1)-(2).

**Requested Relief**

WHEREFORE, Plaintiffs respectfully request that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Order Defendant to disclose the requested records in their entireties and to make copies available to Plaintiffs;
- 3) Provide for expeditious proceedings in this action;
- 4) Award Plaintiffs costs and reasonable attorneys' fees in this action as provided by 5 U.S.C. § 552(a)(4)(E); and
- 5) Grant any other relief the Court deems appropriate.

Dated November 21, 2006  
New Haven, Connecticut

Respectfully submitted,

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